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House Bill 6183 (Substitute H-1 as passed by the House)
Sponsor: Representative Glenn Steil, Jr.
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 6-21-06

CONTENT

The bill would amend the Single Business Tax (SBT) Act to allow a taxpayer eligible to claim a credit for a brownfield redevelopment or historic preservation project that was preapproved or certified before December 31, 2007, and completed before 2010, to claim the credit on its return for its last tax year if the Act were repealed for tax years beginning after December 31, 2007.

The Act establishes criteria under which eligible and qualified taxpayers may claim credits against the SBT of up to 10% of the cost of eligible investment in brownfield property. To claim a credit, a taxpayer must obtain approval of the project from the Michigan Economic Growth Authority (MEGA). If the MEGA chairperson or his or her designee approves a project, the chairperson or designee must issue a preapproval letter stating that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which the credits may be claimed and the maximum total of all credits for the project when it is completed and a certificate of completion is issued; and the project number assigned by MEGA.

A qualified taxpayer with a rehabilitation plan certified after December 31, 1998, may credit against the SBT a percentage of the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which a certification of completed rehabilitation of the historic resource is issued, provided the certification was issued within five years after the rehabilitation plan was certified by the Michigan Historical Center. (The credit is 25% of qualified expenditures that are eligible for a rehabilitation credit under the Internal Revenue Code (IRC), reduced by the amount of credit the taxpayer received for the same expenditures under the IRC; or, if the taxpayer is not eligible for the Federal credit, 25% of the qualified expenditures that would qualify under the IRC if the expenditures were made to an eligible historic resource.)

If either the brownfield redevelopment credit or the historic preservation credit exceeds the taxpayer's tax liability, the amount that is in excess of the tax liability may not be refunded.

The bill's provisions regarding brownfield and historic preservation credits would apply if the Act were repealed for tax years beginning after December 31, 2007.

Under the bill, except as otherwise provided, a qualified taxpayer that had a preapproval letter issued for a brownfield credit, or a rehabilitation plan certified for the rehabilitation of a historic resource, before January 1, 2007, for a project that was not completed or for

which a certification of completed rehabilitation was not issued before the end of the taxpayer's last tax year but was completed before January 1, 2010, could claim the credit amount for the year in which the project was completed, or the certification was issued, against the taxpayer's SBT liability, on the taxpayer's timely filed original or amended annual SBT return, for the taxpayer's last tax year under the Act. (This provision, and those described below, would apply to a credit claimed by a taxpayer or by an assignee of all or a portion of a credit.)

A brownfield credit or historic preservation credit would have to be taken after all other credits the taxpayer claimed for the tax year under the Act, and all of the following would apply:

- The credit amount that the taxpayer would have been allowed to claim for projects or historic rehabilitation completed in 2008 after the end of the taxpayer's last tax year or for projects or rehabilitation completed in 2009 would be in addition to the credit amount that the taxpayer was allowed to claim for projects or rehabilitation completed before the end of the taxpayer's last tax year.
- The credit amount that the taxpayer was allowed to claim for projects or rehabilitation completed in 2008 after the end of the taxpayer's last tax year or for projects or rehabilitation completed in 2009 or the sum of both credit amounts on the taxpayer's annual return for the taxpayer's last tax year could not exceed the taxpayer's tax liability for its last tax year after all other credits for that tax year except the taxpayer's brownfield or historic preservation credit for its last tax year.
- The credit amount that the taxpayer would be allowed to claim for its last tax year could not exceed the amount that the taxpayer would have been allowed to claim for projects or rehabilitation completed in 2008 after the end of the taxpayer's last tax year or for projects or rehabilitation completed in 2009.

If the amount of the total of all brownfield credit amounts or historic preservation credit amounts that the taxpayer could claim under the bill exceeded the taxpayer's tax liability for its last tax year under the Act, the excess amount would have to be refunded.

As used in the bill, "last tax year" would mean the taxpayer's last tax year under the Act that began before January 1, 2008.

A brownfield credit or historic preservation credit could not be claimed before a certificate of completion or certification of completed rehabilitation was issued for the project on which the credit was based.

The bill's credit provisions would not apply to any amount the taxpayer or assignee could claim for the same project or rehabilitation plan for a tax year that began after December 31, 2007, under any other tax act.

Under the Act, a taxpayer that reasonably expects its SBT liability for the tax year to exceed \$600 or adjustments to its tax base to exceed \$100,000 must file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year. The bill would require a taxpayer to calculate its liability for these purposes before applying either the brownfield or the historic preservation tax credit as provided under the bill.

MCL 208.38g et al.

BACKGROUND

Under current law, the SBT Act is scheduled to be repealed effective for tax years that begin after December 31, 2009. In May 2006, Oakland County Executive L. Brooks Patterson

submitted to the Secretary of State petitions containing a reported 372,604 signatures in support of an initiative that would make the repeal effective December 31, 2007.

Under the Michigan Election Law, once petitions have been submitted to the Secretary of State, the Board of State Canvassers is notified and must determine if the petitions have been signed by the required number of qualified and registered electors. (For the November 2006 general election, 254,206 valid signatures are needed.) Any law proposed by initiative petition (and certified by the Board of State Canvassers) must be either enacted or rejected by the Legislature without change or amendment within 40 session days from the time the petition is received in the office of the Secretary of the Senate and the Clerk of the House.

If the Legislature rejects an initiative petition, it may propose a different measure on the same subject. Both measures then are submitted to the electors for approval or rejection at the next general election. If two or more measures approved by the electors at the same election conflict, the measure receiving the highest affirmative vote prevails.

An initiated law is not subject to the veto power of the Governor.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The brownfield and historic preservation tax credits that businesses would be able to claim in 2008 and 2009 under this bill, if the single business tax were repealed for tax years beginning after December 31, 2007, would reduce General Fund/General Purpose revenue by about \$120 million. These tax credits would be claimed directly by businesses that receive these credits or by other businesses that are assigned these credits, or portions of these credits, by businesses that are not able to claim the full amount of the credit for which they qualify. These credits would be claimed on a business's original 2007 single business tax annual return or on an amended return for 2007. Most of this loss in revenue would be realized in FY 2007-08 and FY 2008-09, but it is possible that some of these credits would not be claimed until FY 2009-10. This bill would have no direct impact on local government.

Fiscal Analyst: Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.